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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON 25, D. C.

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5 November 1962

MEMORANDUM TO MR. NITZE

SUBJECT: The U. S. "Anti-Invasion" Guarantee in the Cuban Settlement

This memorandum addresses four questions in attempting to suggest the manner in which the United States should give its "anti-invasion" assurances in the Cuban settlement:

- What is meant by "invasion" of Cuba?
- What provisos qualify the U.S. assurance?
- What procedural arrangements would constitute "suitable safeguards" and "adequate arrangements" with respect to Soviet and Cuban performance of the quid pro quo?
- How and when should the U.S. assurance be given?

The "text" to which we must refer in construing and articulating the U.S. "anti-invasion guarantee" is of course the statement made by the President in his October 27 letter to Chairman Khrushchev. In it, he said:

"As I read your letter, the key elements of your proposal -- which seem generally acceptable as I understand them -- are as follows:

"(1) You would agree to remove these weapons systems from Cuba under appropriate United Nations observation and supervision; and undertake, with suitable safeguards, to halt the further introduction of such weapons systems into Cuba.

"(2) We, on our part, would agree -- upon the establishment of adequate arrangements through the United Nations to insure the carrying out and continuation of these commitments -- (a) to remove the

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quarantine measures now in effect and (b) to give assurances against an invasion of Cuba. I am confident that other nations of the Western Hemisphere would be prepared to do likewise."

1. What is meant by "invasion" of Cuba?

a. Not included:

- U.S. unilateral aerial surveillance (or other methods of obtaining intelligence unilaterally)
- economic pressures (including the "stick" as well as the "carrot" -- e.g., the 4-Point Executive Order barring U.S. business and ports to shipping engaged in Bloc-Cuba trade would be all right, as would even a thoroughgoing economic blockade)
- propaganda (including propaganda designed to encourage overthrow of Castro)
- return to Cuba of civilian refugees

b. Doubtful:

- failure to stop Alpha-66-like activities
- food and supply drops to guerrilla forces
- Bay of Pigs-type operation

c. Included:

- armed seizure by U.S. forces of part or all of Cuba

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2. What provisos qualify the U.S. assurance?

a. Express provisos:

- Soviets and Cubans must "remove these weapons systems" from Cuba"
- Soviets and Cubans must "halt the further introduction of such weapons systems into Cuba"
- there must be established "adequate arrangements through the United Nations to insure the carrying out and continuation of these commitments"

b. Implied provisos:

- Cuban behavior in the Hemisphere must be held down to nose-thumbing and propaganda activities, with Cuban-directed sabotage falling in the "doubtful" category, and direct Cuban invasion of a Latin American country and Cuban-led uprisings by Cuban-trained indigenous forces being proscribed.
- Soviet behavior elsewhere in the world must be held down sufficiently so that all bets are not off

*The meaning of "these weapons systems" is not entirely clear. The Soviets have been confining the description to IRBMs and MRBMs and associated equipment. We have made an issue of IL-28s (which are clearly covered by the list in the Presidential Proclamation). Also obviously included, but only recently emphasized, is warheads. Not clearly included are missile propellants, missile-capable MTBs and missile-capable submarines. And not included are SAMs, MIGs, or Soviet troops and technicians. We probably should press for the removal of all of these doubtful items, especially submarines and facilities for submarines. Presumably the United States would not tolerate a Soviet submarine base in Cuba.

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3. What procedural arrangements would constitute "suitable safeguards" and "adequate arrangements"?

a. Re removal of weapons systems now there:

- clear commitment by Soviets to comply
- declared inventory (checked against unilateral intelligence) minus ground- or sea-count of items removed (checked against unilateral intelligence)
- overflights confirming ship deck loads and residual situation in Cuba

b. Re halting further introduction of such weapons systems:

- clear commitment by Soviets to comply
- ICRC high-seas inspection of incoming ships, presumably beyond the date of removal of existing systems, until a sufficiently reliable substitute procedure for verifying "purity" of incoming shipments is created
- UN (or OAS or Caribbean Peace Commission) "presence" in Cuba, with terms of reference and capability to perpetuate assurance that objectionable systems have not been reintroduced (presumably this would require reciprocal "presence" in neighboring Caribbean countries).
- US unilateral (or perhaps UN negotiated) aerial surveillance of incoming ships, parts, and likely sites

c. Re Cuban behavior in the Hemisphere:

- UN "presence" in Cuba (described above) with mandate broadened to cover, e.g., training of invasion forces (this presumably would require reciprocal UN "presence" in neighboring Caribbean countries)

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-- express qualification of US anti-invasion guarantee by notation that the US commitment "of course" is not intended to impair our inherent right of collective and individual self-defense (via Arts. 51 and 52 of the UN Charter) per Arts. 3 and 6 of the Rio Treaty

d. Re Soviet behavior elsewhere in the world: No reference need be made to this proviso. If the situation gets bad enough overseas, all bets with respect to the Cuban settlement will be off.

4. How and when should the U.S. anti-invasion assurance be given?

a. How: By (1) repetition of the words of the October 27 letter (which is clearly limited to "invasion" and which is clearly contingent upon Soviet-Cuban fulfillment of removal-of-weapons conditions) plus (2) guarded reference to the "obvious" implicit qualification to the effect that the nations of the Western Hemisphere "of course" maintain the inherent right to defend themselves as required by the situation.

b. When: Be prepared to describe the terms of the assurance, if necessary, during negotiations regarding inspection of outgoing cargoes and regarding the creation of a UN (or other) "presence" in Cuba. Be prepared to give the assurance itself at the Security Council meeting at which removal of objectionable materiel from Cuba is certified by the UN.

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